

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:13-cv-422-FDW
(3:97-cr-40-FDW-2)**

JUAN BUATISTA ALOMIA-TORRES,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on consideration of Petitioner's motion for a certificate of appealability. (Doc. No. 7).


On August 1, 2013, the Court entered an Order dismissing this action after finding that Petitioner's effort to obtain relief represented an unauthorized, successive motion under 28 U.S.C. § 2255(h). See (Doc. No. 3). In that Order, the Court specifically denied a certificate of appealability. In his present motion, Petitioner presents, again, the same arguments which have been rejected by this Court on more than one occasion. For the reasons stated in the Court's August 1st Order of dismissal, (Doc. No. 3), the Court denies Petitioner's motion and declines to issue a certificate of appealability.

IT IS, THEREFORE, ORDERED that for the reasons stated herein, Petitioner's motion for a certificate of appealability is **DENIED**. (Doc. No. 7).

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, this Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Miller-

El v. Cockrell, 537 U.S. 322, 336-38 (2003) (stating that in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 474, 484 (2000) (holding that when relief is denied on procedural grounds, a petitioner must establish both that the correctness of the dispositive procedural ruling is debatable and that the petition states a debatably valid claim of the denial of a constitutional right).

Signed: September 17, 2013


Frank D. Whitney
Chief United States District Judge

